

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

J. B. WELLS, JR., et al.,

Plaintiffs,

v.

NORFOLK SOUTHERN RAILWAY
COMPANY, et al.,

Defendants.

Civil Action No. 3:03-CV-296

ORDER

It appearing to the Court by virtue of the signatures of counsel for the respective parties below that the parties are in agreement, the Court finds that Plaintiffs have elected, pursuant to Rule 41 of the Federal Rules of Civil Procedure, to dismiss with prejudice their claims that this action should be certified as and proceed as a class action, as set out in paragraphs 17-20 of their Second Amended Complaint¹ and paragraph 1 of the prayer for relief contained therein. It is therefore ORDERED and ADJUDGED that Plaintiffs' prayer for class certification and all claims that this action should proceed as a class action are dismissed with prejudice as to the re-filing of the same. The parties reserve all other claims and defenses available to them.

ENTER: this 5th day of OCT., 2005.

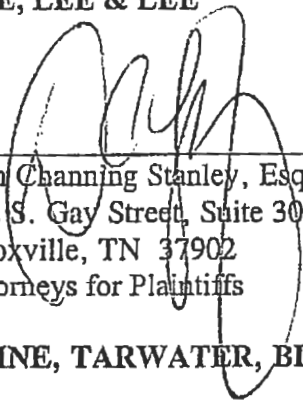
Thomas W. Phillips

JUDGE THOMAS W. PHILLIPS

¹ Plaintiffs were granted leave to file a Third Amended Complaint. That pleading only serves to add additional Plaintiffs, and otherwise adopts the allegations of the Second Amended Complaint. The class action allegations are found in the Second Amended Complaint.

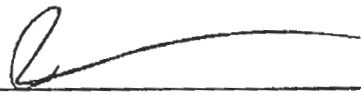
APPROVED FOR ENTRY:

LEE, LEE & LEE



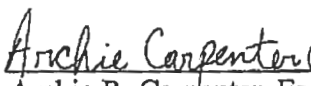
Dan Channing Stanley, Esq. (BPR #021002)
422 S. Gay Street, Suite 301
Knoxville, TN 37902
Attorneys for Plaintiffs

PAINE, TARWATER, BICKERS AND TILLMAN, LLP



Travis J. Graham, Esq. (BPR #019402)
1100 First Tennessee Plaza
800 South Gay Street
Knoxville, TN 37929
Phone: (865) 525-0880
Attorneys for Defendant The Development Corporation of Knox County

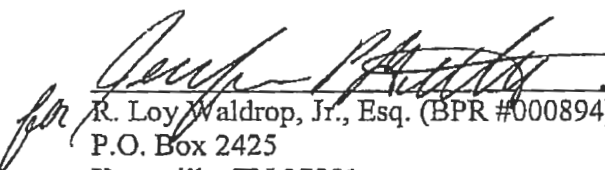
CARPENTER & O'CONNOR



(by permission Joseph Bell)

Archie R. Carpenter, Esq. (BPR #000828)
507 S. Gay Street, Suite 1000
Knoxville, TN 37902
Attorneys for Defendant Phillip E. Reagan

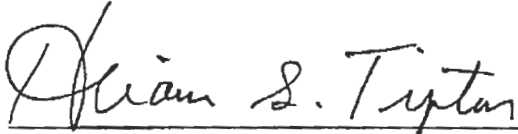
LEWIS, KING, KRIEG & WALDROP, P.C.



for Joseph Bell w/permission

R. Loy Waldrop, Jr., Esq. (BPR #000894)
P.O. Box 2425
Knoxville, TN 37901
Attorneys for Defendants S&ME, Inc. and
Barge, Waggoner, Sumner, and Cannon, Inc.

HODGES, DOUGHTY & CARSON, PLLC



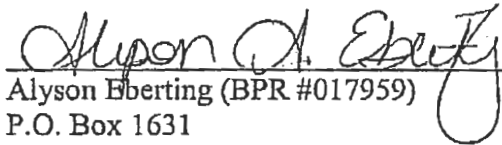
Hiram G. Tipton, Esq. (BPR #001637)

P.O. Box 869

Knoxville, TN 37901

Attorneys for Defendant Burnett Demolition & Salvage Co., Inc.

CITY OF KNOXVILLE LAW DEPARTMENT



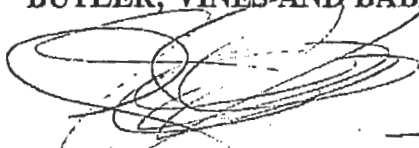
Alyson Eberting (BPR #017959)

P.O. Box 1631

Knoxville, TN 37901

Attorneys for Defendant The City of Knoxville

BUTLER, VINES AND BABB



Steven B. Johnson, Esq. (BPR #007176)

2701 Kingston Pike

Knoxville, TN 37919

Attorneys for Defendant The City of Knoxville